

EXHIBIT A

- E. In the event that a tow truck operator is about to remove an improperly parked vehicle from privately owned real property and has hooked up and engaged said vehicle to a towing truck but has not removed the vehicle from the property, said operator shall immediately release custody and control of the vehicle to the owner or such other person authorized to operate the same for the payment of a fee of \$15, and further provided that said vehicle is immediately removed from the property.

§ 316-3.1. Booting of vehicles.

[Added 3-19-2002 by L.L. No. 1-2002; amended 9-19-2006 by L.L. No. 8-2006]

- A. An operator may boot an improperly parked vehicle on privately owned real property instead of towing it therefrom, but the fee for such booting shall not exceed \$45 plus tax, provided that, upon payment of such fee and the removal of the booting device, said vehicle is immediately removed from the property by the owner or operator thereof. Prior to booting an improperly parked vehicle, the operator shall display to the owner of such vehicle a valid license issued by the Police Commissioner pursuant to this chapter.

[Amended 10-16-2012 by Ord. No. 162-2012]

- B. Whenever a person engaged in the booting of vehicles affixes a boot to an unoccupied motor vehicle on privately owned real property under the direction of the owner or an individual acting on behalf of the owner of such property, said operator shall notify the New Rochelle Police Department immediately. **[Amended 10-16-2012 by Ord. No. 162-2012]**
- C. Whenever an operator affixes a boot to an unoccupied motor vehicle on private property, said operator shall affix a four-inch-by-seven-inch orange sticker to the driver's side window. Said sticker shall warn the driver that a boot is affixed to the vehicle and moving the vehicle could result in damage to the vehicle. The sticker shall include the name and address of the operator, as well as a telephone number the driver can call to arrange for the removal of the boot. **[Amended 10-16-2012 by Ord. No. 162-2012]**

- D. In the event that an operator boots an unoccupied motor vehicle on privately owned real property, the operator or an attendant must remove the boot from the vehicle within 15 minutes after being contacted by the vehicle's owner or operator. **[Amended 10-16-2012 by Ord. No. 162-2012]**

- E. Whenever an operator has begun the process of booting an improperly parked vehicle on private property but has not yet locked the boot onto the vehicle, and the owner or operator of the vehicle offers to remove the vehicle from private property, said operator shall remove the boot from the improperly parked vehicle at no charge to the vehicle's owner or operator.

- F. No motor vehicle shall be booted by a person licensed pursuant to this section unless such licensee has been authorized to boot such motor vehicle pursuant to a written contract

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between such licensee and the owner, lessee, managing agent or other person in control of the property on which such motor vehicle is parked. Such contract shall also provide that such owner, lessee, managing agent or other person in control of the property shall be liable for any violation by such licensee or his or her employee or agents of any of the provisions of this section or of any rules promulgated pursuant to this section. **[Added 10-16-2012 by Ord. No. 162-2012]**

G. An owner, lessee, managing agent or other person in control of property who has entered into a written contract with a person licensed pursuant to this section authorizing such licensee to boot motor vehicles parked on such property shall be liable for any violation by such licensee or such licensee's employees or agents of the provisions of this section, or of any rules promulgated pursuant to this section. **[Added 10-16-2012 by Ord. No. 162-2012]**

H. No motor vehicle may be booted if: **[Added 10-16-2012 by Ord. No. 162-2012]**

- (1) Such vehicle is occupied by any person or live animal;
- (2) Such vehicle is parked on the roadway side of a vehicle stopped, standing or parked at the curb;
- (3) Such vehicle is parked in a fire lane, or in front of or immediately adjacent to a fire hydrant, fire connection or building emergency exit;
- (4) Such vehicle is an ambulance, correction vehicle, police vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, environmental emergency response vehicle, sanitation patrol vehicle, hazardous materials emergency vehicle, ordnance disposal vehicle of the Armed Forces of the United States;
- (5) Such vehicle bears a special vehicle identification issued in accordance with the provisions of § 1203-a of the Vehicle and Traffic Law or "MD" New York registration plates; and
- (6) Such vehicle is parked in a space reserved for vehicles displaying a handicap permit.

I. No release or waiver of any kind purporting to limit or avoid liability for damages to a vehicle that has been booted shall be valid. In addition, any person who booted a vehicle, or other person authorized to accept payment of any charges for such booting, shall provide a signed receipt to the individual paying the booting charges at the time such charges are paid. Such receipt shall state the name, business address, business telephone number and license number of the person who has booted such vehicle as such information appears on the license to engage in booting, and such receipt shall also include a telephone number for the office within the Police Department responsible for receiving complaints with respect to booting. **[Added 10-16-2012 by Ord. No. 162-2012]**

J. No charge shall be imposed for the booting of a vehicle when any person has committed a violation of this section, or any rules promulgated pursuant to this section with respect to

- K. The owner or person in control of a vehicle which has been booted by a licensee or such licensee's employee or agent shall be permitted to pay any charge for booting at the location where such vehicle was booted and the licensee, or other person authorized to accept payment, shall accept such payment in person by credit card in accordance with generally accepted business practices. **[Added 10-16-2012 by Ord. No. 162-2012]**
- L. Any vehicle which has been booted pursuant to this section must be returned to the owner or person in control of such vehicle within 24 hours of booting or such vehicle shall be towed by the operator in accordance with § 316-3 herein. **[Added 10-16-2012 by Ord. No. 162-2012]**

§ 316-4. Warning and informational signs.

[Amended 9-30-1992 by Ord. No. 220-1992]

- A. No owner of private property shall remove, permit the removal or booting of or cause to be removed or booted any motor vehicle from property owned by him unless there is erected and maintained upon such property, at the entrances and exits to such property, a sign containing a warning that parking thereon is restricted to authorized persons only, that unauthorized parking or trespassing is prohibited and that the vehicles of trespassers or unauthorized persons will be towed away or booted, and containing the further statement setting forth the address and telephone number where any person whose vehicle is removed may make inquiry to regain his vehicle. Such signs shall be not less than 12 inches by 18 inches in size, and lettering thereon shall be not less than one inch in size. Included on such sign shall be the fee amount authorized by the County of Westchester and the fee amount authorized by the City of New Rochelle pursuant to § 316-3E of the Code of the City of New Rochelle for hookup but not removal, and the fee amount authorized by the City of New Rochelle pursuant to § 316-3.1 of the Code of the City of New Rochelle for booting. **[Amended 9-19-2006 by L.L. No. 8-2006; 10-16-2012 by Ord. No. 162-2012]**
- B. All information on the above-required signs must be filed with the New Rochelle Police Department. The owner shall inform the Police Department, in writing, of any changes to the contents of such sign within 10 days of such change. The filing fee shall be as set forth in Chapter 133, Fees, for each filing. **[Added 2-16-1993 by Ord. No. 45-1993]**

§ 316-5. License required; exceptions.

[Added 10-16-2012 by Ord. No. 162-2012 Editor's Note: This ordinance also redesignated former § 316-5 as § 316-7.] No person shall conduct towing or booting as defined herein on private property without first having obtained a license as hereinafter provided. All licenses shall be issued for a one-year period.

§ 316-6. License applicant requirements.

[Added 10-16-2012 by Ord. No. 162-2012]

- A. The name and address of the applicant, specifying, in the case of a partnership or an unincorporated association, each partner or member thereof, and in the case of a corporation, the name and address of each officer, director and stockholder thereof.
- B. The date of birth and citizenship of the applicant and each member thereof, if an unincorporated association, and of each officer, director and stockholder, if a corporation.
- C. The address of any and all depots, garages or body shops, whether located inside or outside the City, that will be used by the applicant in connection with his towing business.
- D. A statement as to whether the applicant or any partner, member, officer or director has, within the last five years, ever been convicted of a crime and, if so, the date, crime charged and sentence imposed.
- E. Whether or not the applicant has ever been denied a license for a tow truck, towing business or booting business by any governmental agency or authority or whether or not the applicant has ever been charged with chasing or whether or not any such license ever issued to the applicant has been suspended or revoked and, if so, the date, the location and the circumstances thereof.
- F. A list of all valid licenses held by the applicant which authorize him to conduct a towing or booting business.
- G. Whether this is an initial application or a renewal.
- H. Proof of insurance in accordance with City requirements.
- I. Any other relevant information which the Police Commissioner may require.

§ 316-7. Penalties for offenses.

Notwithstanding any other penalty provision of the Code of the City of New Rochelle, a violation of any provision of this chapter shall be punishable by a mandatory minimum fine for the first violation thereof of \$50, and by a mandatory minimum fine of \$100 for a second or subsequent offense, with the maximum fine in each and every instance which may be imposed not to exceed \$250.

§ 316-8. License fees.

[Added 10-16-2012 by Ord. No. 162-2012] A minimal fee of \$750 shall be paid for each license issued hereunder.

§ 316-9. Issuance of license.

[Added 10-16-2012 by Ord. No. 162-2012] Upon receipt of a properly completed application and payment of the requisite fee, the Police Commissioner shall issue a license to the applicant unless he determines:

- A. That the applicant is unfit and is incapable of properly conducting a towing or booting business within the City of New Rochelle or does not conform to the provisions of this chapter; or
- B. That the applicant's garage, depot or auto repair shop used in connection with the towing business is in violation of any state or City law or regulation, including but not limited to zoning, building or fire law ordinances or regulations in the municipality in which it is located; or
- C. That the applicant has made a materially false statement or misrepresentation in his application.

§ 316-10. Transferability of license.

[Added 10-16-2012 by Ord. No. 162-2012] A license issued hereunder shall not be transferred or assigned to another person or vehicle, except as provided below.

§ 316-11. Suspension, revocation or refusal to renew license; hearing: appeals.

[Added 10-16-2012 by Ord. No. 162-2012]

- A. Any license issued hereunder may be suspended, revoked or refused to be renewed by the Police Commissioner or his designee after a hearing, upon five days' notice, if the licensee thereof shall violate any provision of this chapter, any rule or regulation adopted hereunder or any ordinance of the City or is charged with the violation of any vehicle and traffic law, ordinance or regulation of the State of New York or City of New Rochelle.
- B. A request for a hearing to reinstate a license or to contest a suspension, revocation or refusal to renew must be made, in writing, to the Police Commissioner and be sent by registered or certified mail or given in person within 10 days after the suspension, revocation or refusal to renew. A hearing will be held within 21 days after receipt of the licensee's request before the Police Commissioner or his designee and a decision rendered within three days. The licensee's license will remain suspended, revoked or expired until a decision is rendered by the Police Commissioner or his designee.
- C. Any licensee whose license has either been suspended, revoked or refused to be renewed pursuant to this chapter may appeal said suspension, revocation or refusal to renew to the Police Commissioner, within 30 days of the date thereof, by attaching a copy of the suspension or revocation.

§ 316-12. Enforcement.

[Added 10-16-2012 by Ord. No. 162-2012] This chapter shall be enforced by the Police Department.

January 30, 2014

Honorable Nelson S. Roman
United States District Judge
The Honorable Charles L. Brieant Jr.
Federal Building and United States District Court
300 Quarropas Street
White Plains, NY 10601-4150
13cv 3315(nsr)
Dear Judge Roman:

I am writing you this letter to about the new law New Rochelle Municipal Code (316) that severely inhibits my ability to make a living. This new law prohibits booting when there is an animal or human in the car parked illegally. When an individual that is left in the car doesn't have the capability to move the car, they're saying I can't boot the car. The boot is a device attached to one of the tires to immobilize the vehicle. This does no harm to any animal or human which makes the new law ridiculous. There are 19 vehicles that can't be touched when they illegally parked on private property and owner can't do nothing about it they can actually store their vehicles and the property and owner can't do nothing about it with this new law. Example: any of these 19 vehicles that's been named untouchable along with animal in the vehicle can parked the vehicle at the beginning of the driveway and block a car from getting in or out the driveway and nothing you can do about it under the new law

I am unable to always respond in fifteen minutes two removable from a vehicle that I had booted earlier in the day I might be in White Plains working at the time I work all over Westchester County this is another law that is ridiculous so the police department will write me a city code if I don't get back in 15 minute.

I submitted the license to Bennie the city clerk, he said it would take a couple days. For it to go through the process a week later I asked can I start booting now he said it hadn't been through the process yet or week after week after week he told me to same Story it's now a month and half later I'm still not working went to the police department and left a message to capt. Kealy and Lieut. Marshall if I'm not working in a couple of days I will add them to the federal lawsuit couple days later Benny call me and said I was allowed to start booting car again.

After six weeks Benny found the documents in a closed safe.

I have yet to receive my license.

Llewellyn Angelo Williams